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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
PENG, FRED H				
ART UNIT		PAPER NUMBER		
2623				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/049,908

Applicant(s)

RITTER ET AL.

Examiner

FRED PENG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-13 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 25-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/05/2008 has been entered.

DETAILED ACTION

Election/Restrictions

2. Newly submitted claims 25-28 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claimed feature of more detailed implementation about direction of viewing like a beam splitter, a lens and a position sensing diode is out of the scope of the current invention and is a another separate and distinct invention. If the applicant wants to pursue this invention, a separate application is suggested to be filed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25-28 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

3. Applicant's arguments with respect to claims 1-2, 4-13 and 15-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The added claimed features "direction-of-view-evaluation module determining a direction of view of a pupil by detecting a position of the pupil using light reflected off of the pupil which is detected by an eye tracker" disclosed from the specification is specified in a direction-of-view-determining module which is located at a user site while this claimed features as in the Claims 1 and 12 is specified at a direction-of-view-evaluation module which is located at a remote server site.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 5-6, 10-13, 16-17, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US 5,758,259) in view of Ahmad et al (US 2006/0282387) and Liu (US 6,553,281).

Regarding Claims 1 and 12, Lawler discloses a system (FIG.1) with corresponding method for distributing picture objects comprising a communications network (FIG.1, -14), at least one media center (FIG.1, -12) connected to this communications network, a user interests database connected to the media center, in which user interests profiles are stored (FIG.1, -202a, FIG.6, 142; Col 10 lines 48-52), a picture object database connected to the media center, in

which the picture objects and picture object information assigned to these picture objects are stored (FIG.1, -202a, FIG.5, -122), and one or more communications terminals (FIG.1, -20) connectible to the communications network which each have a display unit (FIG.1, -18) by which the picture objects are made visible to a user of one of the communications' terminals, wherein

user identification data assigned to the user interests profiles are stored in the user interests database (FIG.5, -126; Col 7 lines 39-43),

the media center comprises means of carrying out the following functions:

receive user identification data which is transmitted in each case by one of the communications terminals via the communications network to the media center (FIG.5, -126, Col 7 lines 44-47),

determine the user interests profile which is assigned to the received user identification data (FIG.5, 130, Col 7 lines 54-61),

determine picture objects to which picture object information is assigned having at least one correlation with information from the determined user interests profile (FIG.6, -144; Col 8 lines 54-66, Col 9 lines 1-11), and

transmit at least one of the determined picture objects over the communications network to the respective communications terminal from which the received user identification data was transmitted. Lawler further discloses the media center comprises an interests-determining module which, on the basis of the picture objects selected through the user, determines the user interest profiles and stores them in the user interests database (FIG.6, -146; Col 9 lines 12-18).

Lawler fails to disclose each communications terminal comprising a direction-of-view-determining module for determining the current direction of view of at least one eye of the user with respect to the display unit; the media center further comprising a direction-of-view-evaluation module, which, on the basis of the current direction of view that is transmitted in each case by the respective communications terminal over the communication network to the media center, and on the basis of video objects and/or picture objects transmitted from the media center over the communications network to the respective communications terminal, determines viewed spots of

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the video objects and/or picture objects, and determines picture objects being located at these spots and viewed by the user of the respective communications terminal.

In an analogous art, Ahmad discloses each communications terminal comprising a direction-of-view-determining module for determining the current direction of view of at least one eye of the user with respect to the display unit (FIG.3, element 302); the media center further comprising a direction-of-view-evaluation module (element 300), which, on the basis of the current direction of view that is transmitted in each case by the respective communications terminal over the communication network to the media center, and on the basis of video objects and/or picture objects transmitted from the media center over the communications network to the respective communications terminal, determines viewed spots of the video objects and/or picture objects, and determines picture objects being located at these spots and viewed by the user of the respective communications terminal (Para 40 lines 10-19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include monitoring more specific part of the picture, as taught by Ahmad with the added advantage of providing more accurate and detailed viewing characteristic data from the users for the service providers.

Ahmad is not explicit about the direction-of-view-determination module determining a direction of view of a pupil by detecting a position of the pupil using light reflected off of the pupil which is detected by an eye tracker.

In an analogous art, Liu discloses direction-of-view-determination module (FIG.1) determining a direction of view of a pupil by detecting a position of the pupil using light reflected off of the pupil which is detected by an eye tracker (FIG.1, elements 9, 12, 16; Col 4 lines 13-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include determining a direction of view of a pupil by detecting a position of the pupil using light reflected off of the pupil to be more accurate to track user's viewing direction.

Regarding Claims 2 and 13, Lawler further discloses the interests-determining module is configured to determine the user interests profiles on the basis of the picture object information in each case assigned to the picture objects selected through the direction-of-view-evaluation module (FIG.15, -122, -124, -126, -130; Col 5 lines 52-59).

Regarding Claims 5 and 16, Lawler further discloses the media center comprising means for inserting the selected picture objects into video objects (FIG.6, -142, -144, -146; FIG.3B, -80, Personal Preference, Kung Fu: The Legend Continues is the selected picture objects), which video objects are transmitted from the media center (FIG.1, -12) over the communications network (FIG.1, -14) to a respective communications terminal (FIG.1, -20), where they are made visible to the user of the respective communications terminal by means of the display unit (FIG.1, -18).

Regarding Claims 6 and 17, Lawler further discloses a video synthesizer for generating video objects from stored media objects (FIG.1, -202b), the media objects to which media object information is assigned being selected such that the media object information has at least one correlation with the information from the determined user interests profile (FIG.6, -144, -146; Col 9 lines 7-18).

Regarding Claims 10 and 21, Lawler further discloses the communications network comprising a mobile radio network and the communications terminals comprising mobile radio device (FIG.1, -14; Col 3 lines 53-57. Person skilled in the art knows any communication path suitable for distributing program guide data includes mobile radio link).

Regarding Claims 11 and 22, Lawler further discloses the system and corresponding method comprising a picture object input module (FIG.1, 16) for receiving picture objects and assigned picture object information relating in each case to products and/or services (FIG.3B, -

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80, -94, Trailside: Make your own adventure and its assigned information) and being entered via a communications network by providers of such products and/or services (FIG.1, -204; Col 10 lines 36-42), and for storing the received picture objects and assigned picture objects information in the picture object database (FIG.1, -202a, -202b, Col 10 lines 48-58).

8. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US 5,758,259), Ahmad et al (US 2006/0282387) and Liu (US 6,553,281) as applied to claims 1, 2, 12 and 13 above, and further in view of Ellis et al (US 2003/0149988).

Regarding Claims 4 and 15, Lawler and Ahmad disclose limitations in Claims 1, 2, 12 and 13 above. Lawler further discloses a respective user include an unambiguous user identification (Col 7 lines 39-43).

Lawler and Ahmad are silent about the picture object information includes order numbers, and the media center includes an order module which initiates an order for one of the selected picture objects, for which order the order number assigned to this picture object and the unambiguous user identification of the respective user are used.

In an analogous art, Ellis discloses the picture object information includes order numbers (FIG.5a, -370, 374), and the media center includes an order module (FIG.15a, -370) which initiates an order for one of the selected picture objects (FIG.15a, -374; AIR FORCE is the picture object), for which order the order number assigned to this picture object and the unambiguous user identification of the respective user are used (Para 142 lines 7-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Lawler and Ahmad with the picture object information includes order numbers, and the media center includes an order module which initiates an order for one of the selected picture objects, for which order the order number assigned to this picture object and the unambiguous user identification of the respective user are used, as taught by Ellis as a standard and convenient way to identify the purchase item for a particular user.

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9. Claims 7-8 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US 5,758 259), Ahmad et al (US 2006/0282387) and Liu (US 6,553,281) as applied to Claims 1 and 12 above, and further in view of Scarampi (US 4,931,865).

Regarding Claims 7 and 18, Lawler and Ahmad are silent about user identification data include biometric user features, and the communications terminals have sensors for capturing these biometric user features.

In an analogous art, Scarampi discloses the user identification data include biometric user features, and the communications terminals have sensors for capturing these biometric user features (Col 5 lines 24-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Lawler and Ahmad with the user identification data including biometric user features, and the communications terminals have sensors for capturing these biometric user features, as taught by Scarampi as a secure way to handle the transaction, such as ordering a service.

Regarding Claims 8 and 19, Scarampi further discloses the biometric user features comprising retinal patterns (Col 6 lines 54-61), and the sensors comprising micro-electromechanical scanners for capturing these retinal patterns (Col 3 lines 62-65).

10. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US 5,758 259), Ahmad et al (US 2006/0282387) and Liu (US 6,553,281) as applied to Claims 1 and 12 above, and further in view of applicant's admitted prior art.

Regarding Claims 9 and 20, Lawler and Ahmad disclose a system and corresponding method for distributing picture object for Claims 1 and 12 above.

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However, Lawler and Ahmad fail to teach the display unit comprising a virtual retinal display unit which projects light signals corresponding to video objects and/or picture objects directly onto the retina of the user.

Based on the applicant's admitted prior art, one skilled in the art at the time will understand the display unit comprising a virtual retinal display unit which projects light signals corresponding to video objects and/or picture objects directly onto the retina of the user (See applicant's spec page 8 lines 34-35, page 9 lines 1-4).

It would have obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Lawler and Ahmad with the display unit comprising a virtual retinal display unit which projects light signals corresponding to video objects and/or picture objects directly onto the retina of the user taught by the applicant's admitted prior art as it can be advantageous to adapt the virtual retinal display device; such that it is able to receive and process different data formats efficiently, depending upon the picture objects used.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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